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HURLEY *v.* CHARLES.

Sept. 9, 1909.

[65 S. E. 468.]

**1. Ejectment (§ 90\*)—Common Source of Title—Evidence—Parol Sale.**—As, under Code 1904, § 2741, an equitable title is no defense in ejectment, unless defendant can vouch a contract in writing, stating his purchase of the land and the terms thereof, signed by the vendor, plaintiff in ejectment may not show common source of title, saving him from proving title beyond by such source, by evidence that defendant claims under a parol sale from the alleged common source to his vendor.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. § 261; Dec. Dig. § 90.\* 4 Va.-W. Va. Enc. Dig. 882, 903.]

**2. Ejectment (§ 90\*)—Title of Plaintiff—Evidence—Order of County Court.**—Under Code 1904, § 2339, declaring invalid any location of a land office warrant on land which has been settled continuously for five years previously, and on which taxes have been paid within that time by the settler, and relinquishing any title of the state therein to the person in possession claiming under such settlement and payment, and providing for the making of a record in favor of such person by order of the county court in *ex parte* proceedings, and providing that said record shall be conclusive evidence in any controversy between the claimant thereunder and "any person claiming under a location of said land made after the date of such order," refusal to allow plaintiff in ejectment to introduce such a court order, unless he would avow that he would show that defendant, or one under whom he claimed, was a subsequent locator, was proper.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. 254; Dec. Dig. § 90.\* 4 Va.-W. Va. Enc. Dig. 878.]

Judgment affirmed. All the judges concur.

MORISON *et al.* *v.* AMERICAN ASS'N, Inc.

Sept. 9, 1909.

[65 S. E. 469.]

**1. Mines and Minerals (§ 55\*)—Conveyances—Construction.**—A deed which conveyed, without reserve, all the iron ore under land to the grantee and his heirs and assigns, forever, without any suggestion that title should revert to the grantor, passed a fee simple to the ore, and not merely a license to mine it.

[Ed. Note.—For other cases, see Mines and Minerals, Cent. Dig. § 154; Dec. Dig. § 55.\* 9 Va.-W. Va. Enc. Dig. 829.]

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\*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.